

Message Text

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FM AMEMBASSY ANKARA

TO SECSTATE WASHDC 3017

SECDEF WASHDC

INFO JCS WASHDC

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CINCUSAFE RAMSTEIN AB GERMANY

CSAF/XOXX

OSAF SAFUSI WASHDC

USMISSION NATO

S E C R E T SECTION 1 OF 2 ANKARA 1597/1

E. O. 11652: XGDS-3 INDEF

TAGS: MARR, TU

SUBJ: I. A. NEGOTIATIONS MEETING FEB 27, 1974 -- PROCEDURAL

STATUS AGREED MINUTES/CRYPTO INSPECTION

REF ANKARA 1416

1. AT IA MEETING FEB 27, 1974, US CHAIRMAN (MSA COUNSELOR BOEHM) RAISED STATUS AGREED MINUTES BROUGHT INTO QUESTION BY TURKISH EFFORT VISIT US CRYPT AREAS DURING US-TURKISH INSPECTION CDIS FEB 4-27.

2. US CHAIRMAN STATED ATTEMPTS TURKISH INSPECTION TEAM GAIN ACCESS US CRYPTO AREAS WERE DISTURBING SINCE THOSE OFFICIALS SHOULD HAVE BEEN AWARE AGREED MINUTE DCS ART. XII AND ITS MEANING AND APPARENTLY CHOSE TO IGNORE IT. THIS IN TURN RAISED SERIOUS IMPLICATIONS REGARDING STATUS AGREED MINUTES. STATUS AGREED MINUTES HAD BEEN DISCUSSED AT LENGTH AT BEGINNING GOVERNMENT-LEVEL IA NEGOTIATIONS MARCH 1973 BECAUSE TURKS THEN PROPOSED FOR FIRST TIME USING AGREED MINUTES FOR IA'S TO

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FOLLOW DCS. USG HAD BEEN DISTURBED AT REOPENING PREVIOUSLY

AGREED TEXTS AND REQUIRED ASSURANCE NO INVIDIOUS DISTINCTION BETWEEN AGREED MINUTES AND ARTICLES MAIN TEXT DCS AND IA'S INTENDED BY TURKS. TURKISH DELEGATION GAVE ASSURANCES AGREED MINUTE TECHNIQUE MERELY TO FOLLOW DCS AND IA AGREED MINUTES WOULD HAVE SAME STATUS AS DCS AGREED MINUTES. DCA NEGOTIATING RECORD EVEN CLEARER ON STATUS AGREED MINUTES SHOWING THAT TURKISH NEGOTIATORS HAD AT ONE TIME INDICATED ACCEPTANCE US POSITION THAT AGREED MINUTES HAD AT LEAST EQUAL STATUS WITH MAIN TEXT AND IN CASES AMBIGUITY THE MORE DETAILED PROVISIONS OF AGREED MINUTES WOULD PREVAIL OVER MORE GENERAL LANGUAGE ARTICLES. DCS NEGOTIATING RECORD ALSO MADE VERY CLEAR INTENT LANGUAGE AGREED MINUTE ART XIII WAS THAT AREAS US CRYPTO EQUIPMENT AND MATERIALS LOCATED NO SUBJECT INSPECTION BY ANY NATO HOST COUNTRY. US ASKED TURKISH DELEGATION FOR STATEMENT TURKISH VIEW STATUS AGREED MINUTES.

3. TURKISH CHAIRMAN (ASST DIRGEN INT'S SECURITY AFFAIRS ASULAJL FIRST CHARACTERIZED US REMARKS AS OUTSIDE TERMS REFERENCE IA NEGOTIATIONS BECAUSE QUESTION INTERPRETATION AND IMPLEMENTATION DCS. HOWEVER, HE EXPRESSED WISH TO BE RESPONSIVE TO RAPIDLY DEAL WITH MATTER AND MOVE ON TO IA NEGOTIATIONS. AUTHORITATIVE DOCUMENT ON STATUS AGREED MINUTES WAS LETTER EXCHANGED BETWEEN US AMBASSADOR AND MINISTER FOREIGN AFFAIRS COVERING DCA AGREED MINUTES, WHICH STATED THAT AGREED MINUTES WERE "TO BE REFERRED TO FOR GUIDANCE IN CASES OF DIFFERENCES OF INTERPRETATION AND AMBIGUITY AND TO HAVE THE USUAL BINDING EFFECT ATTRIBUTED TO THEM IN JURISPRUDENCE." THE AGREED MINUTES HAD THE BINDING EFFECT GRANTED IN THAT LETTER, NO MORE, NO LESS. WHAT JURISPRUDENCE HAD TO SAY ON BINDING EFFECT AGREED MINUTES WOULD BE MATTER FOR LEGAL EXPERTS DECIDE AND NOT WITHIN PURVIEW IA NEGOTIATORS. ON PARTICULAR QUESTION CRYPTO INSPECTION, TURKISH DELEGATION REGRETTED IT DID NOT SHARE US VIEW.

4. US POINTED OUT THAT NEGOTIATING RECORDS HAVE STATUS UNDER INTERNATIONAL LAW AND THAT WHEN DIFFERENCES ARISE REGARDING INTENT OF NEGOTIATORS IN AN AGREEMENT ONE CAN HAVE RECOURSE TO NEGOTIATING RECORD. TURKISH DCS NEGOTIATORS HAD EXPRESSED AT VARIOUS MEETINGS LEGAL VALUE THEY PLACED ON NEGOTIATING RECORD BY SUGGESTING THAT AGREEMENT REACHED ON CERTAIN SENSITIVE ISSUES, SUCH AS CRYPTO INSPECTION, NOT BE PLACED IN MAIN TEXT OR

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AGREED MINUTES BUT PLACED AS AGREED ENTRY IN NEGOTIATING RECORD.

5. TURKISH CHAIRMAN REFERRING TO PARA 3 ART II DCS AND ARTICLE 4 OF DRAFT GEOGRAPHICAL (PROTOTYPE) IA'S, STATED THAT ISSUE WAS MATTER OF INTERPRETATION DCS AND SHOULD BE RESOLVED BY COMPETENT AUTHORITIES WHICH WOULD BE EITHER LOCAL COMMANDERS OR TGS AND JUSMMAT.

6. US REITERATED THAT ISSUE STATUS AGREED MINUTES VERY

RELEVANT IA NEGOTIATIONS AND EMPHASIZED THAT NEGOTIATING RECORD

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ACTION NEA-12

INFO OCT-01 ISO-00 INR-10 CIAE-00 L-03 OC-06 CCO-00 PM-07

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COULD NOT BE IGNORED. IF GOT HAD REACHED CONCLUSION AGREED MINUTES INFERIOR MAIN TEXT WE SHOULD FIND OUT NOW SINCE WE HAD BEEN NEGOTIATING IA'S USING AGREED MINUTE TECHNIQUE. US POINTED OUT THAT USE AGREED MINUTES DCA AND IA'S WAS TO ACCOMMODATE TURKISH WISHES TO HOLD MORE CLOSELY CERTAIN SENSITIVE ACCOMMODATIONS TO US REQUIREMENTS. PRESENT TURKISH POSITION CRYPTO INSPECTION CALLED INTO DOUBT SOLEMN UNDERTAKINGS OF GOT.

ONLY WAY LAY MATTER TO REST WOULD BE DISCUSS MEANING AGREED MINUTE DCA ART XIII. US DELEGATION HAD AUTHORITY TO DISCUSS THIS BECAUSE IT BORE ON FUNDAMENTAL ISSUE STATUS AGREED MINUTES. DISCUSSION REVEALED DIFFERENCE OF PRINCIPLE IN INTERPRETATION OF LETTER EXCHANGE COVERING DCA AGREED MINUTES. AGREED MINUTES ON EXAMINATION DO NOT MERELY ELABORATE OR ELUCIDATE ARTICLES. IN SOME CASES THEY TOUCH ON NEW MATTERS OR CHANGE MEANING ARTICLES.

7. TURKS EXPRESSED APPRECIATION FOR US REVIEW NEGOTIATING RECORD BUT REFRAINED FROM STATING ACCEPTANCE OF IT AS BEARING ON STATUS AGREED MINUTES. TURKS CLAIMED US STATEMENT THAT AGREED MINUTES HAD QUAL STATUS IGNORED TEXT OF LETTER COVERING

DCA AGREED MINUTES. TO DETERMINE WHETHER JURISPRUDENCE

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GRANTED EQUAL STATUS AGREED MINUTES WITH MAIN TEXT WOULD REQUIRE STUDY, WHICH TURKISH DELEGATION UNWILLING UNDERTAKE BECAUSE OF DIVERSION FROM MAIN PURPOSE OF IA NEGOTIATIONS. TURKS DID NOT QUESTION STATUS OF AGREED MINUTES VIS A VIS ARTICLES. THE ONLY DIFFERENCE WAS THAT OF INTERPRETATION LAST SENTENCE AGREED MINUTE DCA ART XIII. IN ACCORDANCE DCA AND DRAFT IA'S THIS DIFFERENCE SHOULD BE SUMMITTED FOR RESOLUTION LOCAL COMMANDER LEVEL, THEN TGS-JUSMMAT LEVEL AND THEN GOVERNMENT LEVEL AS LAST RESORT.

8. US POINTED OUT THAT MATTER HAD ALREADY PASSED LOCAL COMMANDER AND TGS-JUSMMAT LEVELS AND IN ANY CASE WAS MATTER FOR GOVERNMENT LEVEL RESOLUTION. HOWEVER IN EFFORT EXPEDITIOUSLY RESOLVE ISSUE US WOULD SUGGEST THAT TGS AND JUSMMAT EXPERTS MEET IMMEDIATELY ON CRYPTO INSPECTION/INTERPRETATION DCA ART XIII ISSUE. IF THEY COULD RESOLVE PROBLEM QUICKLY AND SATISFACTORILY, THEY MIGHT FIND THAT THERE REALLY WAS NO DIFFERENCE IN PRINCIPLE ON STATUS AGREED MINUTES. THAT RESULT WOULD ALLOW RESUMPTION OF IA MEETINGS WITHOUT BREAK IN SCHEDULE TO MEET TURKISH DESIRE FOR RAPD MOVEMENT IN IA NEGOTIATIONS AS RECENTLY EXPRESSED BY PRIME MINISTER TO US AMBASSADOR AND CONCURRED IN BY AMBASSADOR.

9. TURKS DEMURRED AT DEFERRAL FURTHER IA MEETINGS UNTIL CRYPTO INSPECTION AND STATUS AGREED MINUTE ISSUES RESOLVED AND STATED THAT TGS-JUSMMAT MEETINGS ON THOSE ISSUES SHOULD BE SIMULTANEOUS WITH AND SEPARATE FROM IA MEETINGS. TURK CHAIRMAN CLAIMED SUSPENSION IA MEETINGS PENDING RESOLUTION THESE TWO ISSUES WOULD NOT BE ACCEPTABLE TO HIS SUPERIORS.

19. US CHAIRMAN STATED THAT ALL TURKS HAD TO DO TO RESOLVE AGREED MINUTE ISSUE WAS ASSURE US THAT PREVIOUS TURKISH UNDERTAKINGS IN EXCHANGE LETTERS COVERING DCA AGREED MINUTES, AND ILLUMINATED IN NEGOTIATING RECORD REMAINED UNCHANGED, I.E., THAT AGREED MINUTES INTEGRAL PART DCSZ OLING QUAL STATUS WITH MAIN TEXT. WITHOUT THAT ASSURANCE IT NOT REASONABLE EXPECT US NEGOTIATE IA'S WITH AGREED MINUTES.

1. TURK CHAIRMAN RESPONDED THAT GOT ALWAYS HONORED CONTRACTUAL COMMITMENTS AND EXPECTED SAME FROM ITS PARTNER IN CONFORMITY INTERNATIONAL PRACTICE BETWEEN EQUAL SOVEREIGN STATES.

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12. US CHAIRMAN THEN STATED THAT HIS PROPOSAL TO REFER CRYPTO MATTER TGS-JUSMMAT HOPING FOR QUICK AND SATISFACTORY SOLUTION WHICH WOULD SHOW NO DIFFERENCE REALLY EXISTED ON STATUS AGREED MINUTES WAS MISTAKE. SINCE TURKS COULD NOT ASSURE US ON THIS MATTER (STATUS AGREED MINUTES) IT WOULD HAVE TO BE REFERRED TO HIGHER AUTHORITY. WHEN HIGHER AUTHORITY HAD RESOLVED MATTER, IA NEGOTIATING DELEGATIONS COULD RESUME THEIR WORK.

13. TURKISH CHAIRMAN PROTESTED THAT "COMPETENT AUTHORITIES" NOT BEING GIVEN OPPORTUNITY TO RESOLVE ISSUES IN QUESTION IF REFERRED TO HIGHER AUTHORITY. ASSURANCES THAT DCA ARTICLES AND AGREED MINUTES WOULD BE FOLLOWED SHOULD BE SUFFICIENT. WORDING DCA SHOULD NOT BE QUESTIONS. LETTER COVERING AGREED MINUTES ALREADY EXISTS AND IS AGREED, CLOSED AND SETTLED. IT SHOULD NOT BE REOPENED. QUESTION ONE OF INTERPRETATION AND APPLICATION BY COMPETENT AUTHORITIES IN SPECIFIC CASES SUCH AS CRYPTO INSPECTION ISSUE RAISED DURING RECENT VISITS CDIS.

14. US AFFIRMED THAT IT HAD NOT QUESTIONED TURKISH HONORING OF CONTRACTUAL OBLIGATIONS, BUT GOT UNDERSTANDING OF THESE OBLIGATIONS. TURKISH ASSURANCES APPRECIATED IN THAT THEY SUGGESTED THAT GOT CONTINUES, AS IN PAST, TO REGARD AGREED MINUTES AS BINDING AND INSEPARABLE FROM ARTICLES AND ARTICLES FROM AGREED MINUTES. SO WHAT MIGHT HAVE BEEN REGARDED AS ATTACK ON AGREED MINUTES WAS MISUNDERSTANDING WHICH WOULD BE CORRECTED WHEN ATTENTION OF THOSE MISUNDERSTANDING DRAWN TO NEGOTIATING RECORD. IF TURKS SUGGEST FORUM FOR THIS RESOLUTION "COMPETENT AUTHORITIES", US COULD AGREED. THAT WAS US UNDERSTANDING TURKISH REMARKS.

15. TURKISH CHAIRMAN STATED US HAD ANSWERED OWN QUESTIONS AND THAT HE HAD NO FURTHER COMMENTS. HE EXPRESSED REGRET THAT LONG DISCUSSION ISSUES RAISED BY US HAD PREVENTED DISCUSSION OF SCHEDULED AGENDA ITEM C&E. HE TRIED TO GET US COMMITMENT MEET FOLLOWING WEDNESDAY, MARCH 6, ON C&E.

16. US CHAIRMAN DEFERRED DECISION ON NEXT MEETING PENDING FURTHER CONSIDERATION TURKISH REMARKS ON STATUS AGREED MINUTES.

17. ASULA REQUESTED SEPARATE MEETING WITH BOEHM MONDAY, MARCH
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4, SUBSTANCE OF WHICH WE WILL REPORT.
ANALYSIS AND COMMENTS ON THAT AND FEB 27 MEETING WILL FOLLOW
SEPTEL.
MACOMBER

NOTE BY OC/T: ANKARA 1597 SECTION 2 OF 2 AS RECEIVED. CORRECTIONS TO FOLLOW.

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